

COURT OF APPEAL SITTING

**SAINT LUCIA
26th – 30th October 2015**

JUDGMENTS

Case Name: **In the Matter of the New Huerto Trust**

And

**In the Matter of the Trustees Relief Act and Part
67 of the Civil Procedure Rules**

**ROYAL FIDUCIARY GROUP LIMITED
(a Company Incorporated in Hong Kong)
(trustee of the New Huerto Trust)**

**[BVIHCMAP2013/0022]
(Territory of the Virgin Islands)**

Date: **Monday, 26th October 2015**

Coram: **The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]**

Appearances:
Appellant: **Ms. Renée St Rose**

Issues: **Civil appeal – Trust deed – Discretionary trusts – Deed of appointment – Power of appointment under trust – Whether power of appointment in trust deed permits trustee to exclude a named beneficiary from the objects of a discretionary trust in advance of appointing capital to other named beneficiaries**

**Result &
Reason:** **Held: allowing the appeal; and granting the declarations sought in the court below, that:**

A trustee, in the absence of any contrary indication, can validly appoint property among two or more objects of the trust while excluding altogether one or more objects. In this case, the necessity for the trustee to have exercised the power of appointment by excluding the settlor in advance of appointing any property to the remaining objects arose only out of the desire to protect the trust property from an adverse claim against it. Following from this, there is no reason why the trustee could not, in advance of appointing any property to the objects of the trust, use the power of appointment to exclude one of them from benefiting under the trust. The result of this would be an increase in the property interests available for distribution to the children and remoter issue of the settlor, who are the intended beneficiaries of the settlor's benefaction.

Muir v Inland Revenue Commissioners [1966] 1 WLR 1269 applied; Blausten v Inland Revenue Commissioners [1972] Ch 256 applied.

Case Name:

**Montpellier Farm Ltd
v
Antigua Commercial Bank**

**[ANUHCVP2011/0007]
(Antigua and Barbuda)**

Date:

Tuesday, 27th October 2015

Coram:

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]**

Appearances:

**Appellant: Mr. Kendell Gill holding papers for Mr. Clement Bird of
Bird Law Firm**

**Respondent: Mr. Horace Fraser holding papers for Antigua Commercial
Bank**

Issues:

Civil appeal – Oral agreement – Whether the learned trial judge erred in finding that there was no enforceable oral agreement – Letter of credit – Application for letter of credit signed in blank – Whether a party to an agreement who signs the agreement in blank is bound by whatever terms the other party to the agreement inserts thereafter – Claimant confined to case as pleaded

**Result &
Reason:**

Held: dismissing the appeal; and awarding costs in favour of ACB in the sum of EC\$13,333.33, that:

1. Whether or not parties intend an agreement between them to give rise to legal relations between them will depend on the circumstances of each case and must be judged objectively. Contracts are not lightly to be implied by a court. Having examined what the parties said and did, a court must be able to conclude with confidence, both that the parties intended to create contractual relations and that the agreement was to the effect contended for. In reaching this conclusion, the court must first find that there is an agreement of the type pleaded. On the evidence in the present appeal, this could not be the case. It was Mr. Peretz's own evidence that he reminded the parties attending the meeting that what the bank had received by fax was only a draft that no one had signed as yet, which, he said, was only to show the spirit of the contract and that the permanent contract would be signed when he was finished with Crane the next day. This clearly left open the possibility of substantial revision. It was therefore incorrect to say and it was not supported by any evidence that at the conclusion of the discussion there was any consensus or certainty on all essential matters.

Blackpool and Fylde Aero Club Ltd v Blackpool Borough Council [1990] 3 All ER 25 applied.

2. It has long been a well-recognized principle of contract law that an agreement between two parties to enter into an agreement in which some critical part of the contract matter is left undetermined is no contract at all. To be a good contract there must be a concluded bargain and a concluded contract is one

which settles everything that is necessary to be settled and leaves nothing to be settled by agreement between the parties. In the present case, Montpellier is confined by its statement of case as pleaded which was that an agreement was made on 31st October 2002 with nothing left to be done and that certain things were finalized. The contract that was pleaded was not that ACB had agreed with Montpellier that it would issue the LOC on payment terms pursuant to whatever LOC term was finally determined between Montpellier and Crane as would be reflected on the final purchase order that would be submitted to ACB. Even if that were Montpellier's case, there still would have been the requirement (as in fact occurred) that ACB and Montpellier agree on the actual terms for the issue of the LOC by ACB. On Mr. Peretz's own evidence, he still had to come into ACB to make the application for the LOC; consequently, there could not have been a concluded agreement on 31st October 2002 whereby ACB had agreed to issue an LOC, when in fact the terms for the issue of the LOC, as per the LOC application form, were still to be agreed. Accordingly, there was ample evidence before the learned trial judge to permit him to properly conclude that what transpired on 31st October 2002 were merely pre-contractual negotiations and his findings in that regard were not against the weight of the evidence.

May and Butcher v The King [1934] 2 KB 17 applied; Blay v Pollard and Morris [1930] All ER Rep 609 applied; Esso Petroleum Co. Ltd. v Southport Corporation [1956] 2 WLR 81 applied.

3. Where a party carelessly signs a document in blank and leaves it to another person to fill it in in a particular way (that person not being the agent of the other contracting party) and that other person fills it in, whether by fraud or mistake, in some different way and that document is then relied on by an innocent third party, (the third party having had no reason to suspect that the document was something other than what it purported to be) then as between the signer and the innocent third party, the signer will be bound. In this matter, in making the statement of law in relation to Mr. Peretz's signing of the LOC form in blank, the learned trial judge was simply stating what

may be described as the basic proposition. That this is so is supported by the fact that the statement represents the resulting legal position where a party is unable to successfully bring himself either within the established confines of a plea of non est factum or is unable to successfully mount a case for relief via some other avenue, such as misrepresentation, fraud or mistake. Taken out of context, the learned trial judge's statement could have been interpreted to mean that in no circumstance could a person in the position of a party who signs a form in blank knowing it will be filled in by the other party ever escape from the legal effect of his signature. That would not be correct. However, that was not what the statement, considered against the backdrop of the case, intended to convey. Accordingly, in the circumstances of the case as pleaded, the learned trial judge was correct in finding that Montpellier was bound by the terms of the LOC which Mr. Peretz signed in blank.

United Dominions Trust Ltd. v Western B.S. Romanay (trading as Romanay Car Sales), Third Party [1976] QB 513 applied.

STATUS HEARING

Case Name: Patrick Morille
V
Hermia Roseline Morille
[SLUHCVP2010/0035]

Date: Friday, 30th October 2015

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Applicant:	Mr. Horace Fraser
Respondent:	Ms. Esther Greene-Ernest

Issue: **Status of matter**

**Type of Oral
Result / Order
Delivered:** **Directions**

Result / Order: **[Oral delivery]**
1. The matter is adjourned for further status hearing at the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016.
2. The Chief Registrar to inquire about the status of this appeal and notify the parties accordingly.

Case Name: **[1] Andrew Laurent**
[2] Brent Laurent
v
Caribbean Metals Ltd.
[SLUHCVAP2012/0017]

Date: **Friday, 30th October 2015**

Before: **The Hon. Mr. Mario Michel, Justice of Appeal**

Appearances:
Applicant: **Mr. Horace Fraser**
Respondent: **Mr. Thomas Theobalds**

Issue: **Status of matter**

**Type of Oral
Result / Order
Delivered:** **Directions**

Result / Order:

[Oral delivery]

- 1. The Registrar of the High Court is directed to arrange for the transcript of the proceedings to be prepared within 3 months of the date of this order and notify the parties forthwith that the copies of the transcript are available for collection upon payment of the prescribed fee.**
- 2. Within 52 days of receipt of the notification of the parties that the transcript is available, the appellant shall file and serve its skeleton arguments.**
- 3. Within 28 days of service of the appellant's skeleton arguments, the respondent shall file and serve its skeleton arguments.**
- 4. Within 14 days of service of the respondent's skeleton arguments, the appellant may file a skeleton argument in reply.**
- 5. The record of appeal shall be prepared, filed and served in accordance with rule 62.12 of the Civil Procedure Rules 2000.**

Reason:

The transcript of proceedings in the court below had not yet been prepared.

Case Name:

**George Alexander
v
Police Corporal 483 Bernard Gaston**

[SLUMCRAP2013/0004]

Date:

Friday, 30th October 2015

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: Mr. Horace Fraser

Respondent: Mr. Leon France, Crown Counsel

Issue:

Status of matter

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

**[Oral delivery]
The appeal is accordingly dismissed.**

Reason:

The Court noted the notice of intention not to proceed with the appeal filed on 22nd July 2015.

Case Name:

**Agnes St. Romain
v
The Police**

[SLUMCRAP2010/0001]

Date:

Friday, 30th October 2015

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: Mr. Leslie Prospere, with him, Mr. Vilan Edward

Respondent: Mr. Leon France, Crown Counsel

Issue:

Status of matter

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

**[Oral delivery]
The appeal is accordingly conceded and the order of the magistrate pronounced on 14th June 2014 is set aside.**

Reason: The respondent indicated that there was no intention to enforce the order of the magistrate forbidding the appellant from entering the Quarter of Micoud for a period of 6 months and in default the sum of \$2,500 to be paid by the appellant or 6 months in prison.

Case Name: Agnes Kay St. Romain
v
Rubina Joseph WPC 243
[SLUMCRAP2011/0010]

Date: Friday, 30th October 2015

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:
Appellant: Mr. Leslie Prospere, with him, Mr. Vilan Edward
Respondent: Mr. Leon France, Crown Counsel

Issue: Status of matter

**Type of Oral
Result / Order
Delivered:** Directions

Result / Order: [Oral delivery]
1. The Senior Magistrate shall cause for the record of appeal to be prepared within 3 months of the date of this order and notify the parties forthwith of the availability.
2. Within 14 days of notification to the parties that the record is available, the appellant shall file and serve skeleton arguments.
3. Within 14 days of service of the appellant's skeleton argument, the respondent shall file and serve skeleton arguments.

4. Hearing of the appeal shall be fixed for the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016.

Reason: The notes of evidence had not yet been obtained from the magistrate.

Case Name:

[1] Gertha Belmar Gough Smith
[2] Veronique Belmar
[3] Mary Laypet Belmar-Clarke
v
[1] The Cabinet of Saint Lucia
[2] The Chief Surveyor
[3] The Attorney General
[SLUHCVAP2008/0030]

Date: Friday, 30th October 2015

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: Mr. Daniel Francis

Respondent: Ms. Brender Portland-Reynolds, Solicitor General

Issue: Status of matter

Type of Oral Result / Order Delivered: Directions

Result / Order: [Oral delivery]

1. Unless the appellant actively prosecutes the appeal in accordance with CPR 62.11 and 62.12 within 28 days of the making of this order, then the matter shall stand dismissed.

2. Any interest that is payable by the respondent shall not accrue for any period beyond the making of the order of Blenman JA dated 30th April 2013.

Reason: The Court was of the view that it was not fair for the respondent to have to face interest payable after the date of Blenman JA's order, being 30th April 2013, when the delay in the prosecution of the matter was entirely the cause of the appellant.

Case Name: The Attorney General
v
Ausbert Regis
[SLUHCVAP2012/0001]

Date: Friday, 30th October 2015

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:
Appellant: Ms. Brender Portland-Reynolds, Solicitor General
Respondent: No appearance

Issue: Status of matter

**Type of Oral
Result / Order
Delivered:** Oral Judgment or Decision

Result / Order: [Oral delivery]
The appeal is accordingly dismissed.

Reason: The Court noted that a notice of discontinuance had been filed on 28th October 2015.

Case Name: **The Attorney General**
v
Josephat Small
[SLUHCVAP2011/0027]

Date: **Friday, 30th October 2015**

Before: **The Hon. Mr. Mario Michel, Justice of Appeal**

Appearances:
Appellant: **Ms. Brender Portland-Reynolds, Solicitor General**
Respondent: **No appearance**

Issue: **Status of matter**

Type of Oral Result / Order Delivered: **Oral Judgment or Decision**

Result / Order & Reason: **[Oral delivery]**
The appeal is accordingly dismissed.

Reason: **The Court noted that a notice of discontinuance had been filed on 28th October 2015.**

Case Name: **Morris Francois**
v
Fitzroy Alexander
[SLUMCRAP1993/0001]

Date: Friday, 30th October 2015

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant:	No appearance
Respondent:	In person

Issue: Status of matter

Type of Oral Result / Order Delivered: Directions

Result / Order: [Oral delivery]

1. The matter is adjourned for further status hearing during the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016.
2. The notice of status hearing and this order to be served on the appellant personally.
3. The Senior Magistrate to cause to be prepared and filed the record of appeal within 3 months of the date of this order.

Reason: There was no evidence that the respondent had been served with the notice of status hearing.

Case Name:

Jeannette Augustin
v
Cassius Randolphe Const. 663
Vulnerable Persons Team

[SLUMCRAP2009/0000]

Date: Friday, 30th October 2015

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: Mr. Ramon Raveneau

Respondent: Mr. Leon France, Crown Counsel

Issue: Status of matter

**Type of Oral
Result / Order
Delivered:** Directions

Result / Order: [Oral delivery]
1. The Senior Magistrate shall cause for the record of appeal to be prepared with 3 months of the date of this order.
2. If the record is not made available to the appellant so that the appellant may prosecute her appeal, the appeal shall be allowed.

Reason: There were no notes of evidence from the magistrate.

Case Name: Luann Shanel Amorsingh
v
Martina Labadie

[SLUHCVP2012/0022]

Date: Friday, 30th October 2015

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: Mr. Andie George

Respondent: No appearance

Issue: **Status of matter**

**Type of Oral
Result / Order
Delivered:** **Directions**

Result / Order: [Oral delivery]
1. The matter is adjourned for further status hearing to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016.
2. If the respondent shall fail to appear to defend the appeal, the appeal shall be allowed as of 8th February 2016.
3. Counsel on record for the respondent to be served with a copy of this order.

Reason: There was no evidence that the respondent had been personally served with notice of hearing of the appeal.

Case Name: **David Ferguson**
v
Carol Gideon Clovis
[SLUHCVP2015/0001]

Date: **Friday, 30th October 2015**

Before: **The Hon. Mr. Mario Michel, Justice of Appeal**

Appearances:
Appellant: **Mr. Daarsrean Greene**
Respondent: **No appearance**

Issue: **Status of matter**

**Type of Oral
Result / Order
Delivered:**

Directions

Result / Order:

[Oral delivery]

- 1. The matter is adjourned for further status hearing to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016.**
- 2. The respondent, Carol Gideon-Clovis to be served personally with the notice of status hearing and status hearing order.**
- 3. The Registrar of the High Court is directed to arrange for the preparation of the transcript of proceedings in this matter within 3 months of the date of this order; and shall notify the parties forthwith of the availability of the transcript.**

Reason:

There was no evidence that the respondent had been personally served with notice of hearing of the appeal.

Case Name:

**Ricky Mercedes
v
Cornelius Jn. Baptiste PC 572
[SLUMCRAP2000/0000]**

Date:

Friday, 30th October 2015

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: No appearance

Respondent: Mr. Leon France

Issue:

Status of matter

Type of Oral

Directions

**Result / Order
Delivered:**

Result / Order:

[Oral delivery]

- 1. The matter is adjourned for further status hearing to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016.**
- 2. The notice of status hearing and status hearing order to be served on counsel on record for the appellant.**
- 3. The Senior Magistrate shall cause to be prepared the record of appeal within 3 months of the date of this order.**

Reason:

The record of appeal had not yet been prepared in the matter. Further, there was no evidence on file confirming that the appellant had been served with notice of the status hearing by publication in the newspaper as had been ordered by Thom JA during the January 2015 Court of Appeal sitting in Saint Lucia.

Case Name:

**Nicky Isidore
v
PC 532 Albert Charlery
[SLUMCRAP2003/0009]**

Date:

Friday, 30th October 2015

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: No appearance

Respondent: Mr. Leon France

Issue:

Status of matter

Type of Oral

Directions

**Result / Order
Delivered:**

Result / Order:

[Oral delivery]

- 1. The matter is adjourned for further status hearing to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016.**
- 2. The notice of hearing of appeal and status hearing order to be served on counsel on record for the appellant.**
- 3. The Senior Magistrate to arrange for the preparation of the record of appeal within 3 months.**

Reason:

The record of appeal had not yet been prepared. Further, there was no evidence that the appellant or his counsel had been served with notice of the status hearing.

Case Name:

**Timothy Dupres
v
Corporal 398 George
[SLUMCRAP2008/001B]**

Date:

Friday, 30th October 2015

Before:

The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: No appearance

Respondent: Mr. Leon France, Crown Counsel

Issue:

Status of matter

**Type of Oral
Result / Order
Delivered:**

Directions

**Result / Order
& Reason:** [Oral delivery]
Unless the appellant would have actively taken steps to prosecute the appeal within 3 months of the date of this order the appeal shall stand dismissed.

Case Name: Sheldon Peter
v
WPC 365 Faucher
[SLUMCRAP2006/0000]

Date: Friday, 30th October 2015

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: No appearance

Respondent: Mr. Leon France, Crown Counsel

Issue: Status of matter

**Type of Oral
Result / Order
Delivered:** Directions

Result / Order: [Oral delivery]
1. The matter is adjourned for further status hearing at the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016.
2. The notice of hearing is to be served on counsel on record for the appellant.
3. If the appellant does not actively pursue the appeal within 3 months of the date of this order the appeal shall stand dismissed.

Reason: There was no evidence that the appellant had been served with notice of hearing of the appeal. Further, the

Court noted that appellant has taken no steps to prosecute his appeal.

APPLICATIONS AND APPEALS

Case Name:

**Jewel Thornhill
v
The Attorney General**

[SLUHCVAP2012/0035]

Date:

Monday, 26th October 2015

Coram:

**The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]**

Appearances:

Applicant: Mr. Horace Fraser

Respondent: Ms. Brender Portland-Reynolds, Solicitor General

Issues:

Application for conditional leave to appeal to Her Majesty in Council

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral delivery]

The appellant is granted conditional leave to appeal to Her Majesty in Council on the following conditions:

- 1. The appellant do pay into Court security in the sum of £500 sterling pursuant to Section 5(a) of the West Indies Associated States (Appeals to the Privy Council) Order 1957, such payment to be made within 90 days from today's date.**

2. The appellant shall apply to the Court within 30 days of the receipt of the Certificate of the Registrar that the security has been paid to the satisfaction of the Registrar and that the appellant has otherwise complied with this Order, for an order for final leave to appeal to Her Majesty in Council.
3. The appellant shall prepare the record of appeal and shall transmit to the Registrar of the Supreme Court in Saint Lucia immediately upon final leave to appeal being granted and shall include a copy of the orders granting conditional and final leave to appeal.
4. Costs of the application shall be costs in the appeal to Her Majesty in Council.

Reason:

The Court was satisfied that the applicant had met the requirements under the provisions of the constitution for leave to appeal to Her Majesty in Council.

Case Name:

**The Attorney General of Saint Lucia
v
Kaim Sexius**

[SLUHCVAP2012/0034]

Date:

Monday, 26th October 2015

Coram:

**The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]**

Appearances:

Applicant: Ms. Isa Cyril

Respondent: Ms. Brender Portland-Reynolds, Solicitor General

Issues:

Application for final leave to appeal to Her Majesty in Council – Oral application for adjournment to obtain certificate from the Registrar of the Supreme Court

Type of Oral Result / Order Delivered:	N/A				
Result / Order:	[Oral delivery] The hearing of the application for final leave to appeal to Her Majesty in Council is adjourned to the morning of Wednesday, 29th October 2015.				
Reason:	The applicant had not obtained the certificate from the Registrar of the Supreme Court of Saint Lucia stating that security for costs was given within the time prescribed to the satisfaction of the Registrar. In the absence of the certificate the Court could not proceed to grant final leave to appeal. In the circumstances, the Court adjourned the matter to allow the applicant time to obtain the certificate from the registrar.				
Case Name:	The Medical and Dental Council v Dr. Shaelle Durand [SLUHCVAP2015/0024]				
Date:	Monday, 26 th October 2015				
Coram:	The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]				
Appearances:	<table border="0" style="width: 100%;"> <tr> <td style="width: 30%; vertical-align: top;">Applicant / Respondent:</td> <td style="vertical-align: top;">Ms. Wauneen Louis-Harris</td> </tr> <tr> <td style="vertical-align: top;">Respondent / Applicant:</td> <td style="vertical-align: top;">Ms. Lydia Faisal</td> </tr> </table>	Applicant / Respondent:	Ms. Wauneen Louis-Harris	Respondent / Applicant:	Ms. Lydia Faisal
Applicant / Respondent:	Ms. Wauneen Louis-Harris				
Respondent / Applicant:	Ms. Lydia Faisal				
Issues:	Application for leave to appeal – Application for extension of time – Application for stay of execution –				

Application by respondent to strike out paragraph of affidavit in support of application for leave – Oral application for adjournment to obtain transcript of proceedings in court below

Type of Oral
Result / Order
Delivered:

N/A

Result / Order
& Reason:

[Oral delivery]
Pending the receipt of the transcript, the application for leave to appeal against the order granting interim relief, the application for the stay and the application to strike out various paragraphs of the affidavit filed on 13th October 2015, be adjourned and be fixed for mention on the morning of Friday, 30th October 2015.

Reason:

The matter was adjourned to allow the applicant to obtain the transcript of the hearing of the application for interim relief in the court below.

Case Name:

Brad Andrew
v
The Police

[SLUMCRAP2014/0011]

Date:

Monday, 26th October 2015

Coram:

The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Horace Fraser

Respondent: Ms. Tamara Foster-Calderon, Crown Counsel, together with Ms. Victoria Charles-Clarke, Director of Public Prosecutions

Issues:	Magisterial criminal appeal against sentence – Possession with intent to supply and export – Street value of drug approximately \$6,000 – Custodial sentence imposed by magistrate – Appellant pleaded guilty at first opportunity – First time offender – Appellant age 23
Type of Oral Result / Order Delivered:	Oral Judgment or Decision
Result / Order:	[Oral delivery] 1. The appeal against sentence is allowed. 2. The custodial sentence is accordingly substituted by the imposition of a fine in the sum of \$1,000.00 payable by monthly instalments of \$200.00, commencing from 2nd November 2015. In default of payment of any such instalment, six (6) months imprisonment. 3. In addition, the appellant shall enter into a recognizance to be of good behaviour for a period of two (2) years. Should the appellant breach this condition, he shall be liable to be further sentenced by this Court.
Reason:	The Court was of the view that the learned magistrate erred in imposing the maximum sentence upon the appellant having regard to the circumstances of the case, including, but not limited to, the fact that the appellant pleaded guilty and was a first time offender, as well as other factors urged by counsel for the appellant. Further, the Court noted that it had the jurisdiction to vary the sentence and impose a fine and probation. The Court was of the view that the mitigating factors outweighed the aggravating factors and in the circumstances the Court considered that it was fair to impose a fine and probation period to meet the justice of the case.

Case Name:

**Christopher Smith
v
Hilary Emmanuel CPL 305**

[SLUMCRAP2006/U]

Date:

Monday, 26th October 2015

Coram:

**The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Mr. Daarsrean Greene

Respondent:

Mr. Leon France, Crown Counsel, together with Ms. Victoria Charles Clarke, Director of Public Prosecutions

Issues:

Magisterial criminal appeal against conviction - Possession of controlled drug – Whether learned trial judge’s findings were supported by the evidence – Appeal against sentence of fine of \$10,000, to be paid in 15 days, in default, 1 year imprisonment – Whether sentence excessive

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral delivery]

- 1. The appeal against conviction is dismissed.**
- 2. In respect of sentence, the fine of \$10,000.00 is excessive and is substituted with a fine of \$1,000.00 to be paid within three (3) months, i.e. on or before 26th January 2016. In default, six (6) months imprisonment.**

Reason:

The appellant appealed his conviction and sentence for being in possession of 0.68g of cocaine. The main thrust of the appellant’s appeal related to the issue as to whether the learned magistrate could have been satisfied

on the evidence that the appellant was in possession not only factually, but with the requisite knowledge. Having reviewed the evidence and having regard to the facts as found by the magistrate, the Court was of the view that it was open on the evidence which the magistrate accepted, for the magistrate to have concluded that the offence of possession had been proven. It could not be said that there was no evidence on which his conclusion could be supported. In the circumstances, it was not shown that the Court was justified in disturbing the learned magistrate's findings of fact and the conclusion of guilt to which he arrived. The appeal against conviction was accordingly dismissed.

In respect of sentence, wherein the appellant was fined \$10,000, the Court did consider that in all the circumstances and having regard to the quantity of the drug, that the sentence was excessive. The Court was also persuaded that the mitigating factors outweighed the aggravating factors in the case, including the fact that the appellant was a first time offender. However, the appellant did not get the benefit of a 1/3 reduction on his sentence having not pleaded guilty but being convicted following trial. In the context of the circumstances and facts as found, the Court was of the view that a fine in the sum of \$1,000 to be paid within 3 months, i.e. by 26th January 2016, in default, 6 month's imprisonment, met the justice of this case and was so ordered.

Case name:

Owen Lamontagne

V

417 CPL Didier

[SLUMCRAP2006/0016]

Date:

Monday, 26th October 2015

Coram:

The Hon. Dame Janice M. Pereira, DBE, Chief Justice

The Hon. Mde. Gertel Thom, Justice of Appeal

The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondent: Ms. Victoria Charles-Clarke, Director of Public Prosecutions

Issues: Magisterial criminal appeal against conviction – Indecent assault – Whether there was sufficient evidence for a conviction – No notes of evidence from magistrate - Magistrate no longer in jurisdiction

Type of Oral Result / Order Delivered : Oral Judgment or Decision

Result / Order & Reason: [Oral delivery]
1. Having regard to the lack of a transcript of the proceedings in the court below and having regard to the unlikelihood of production of the transcript by the Magistracy, this Court has no other alternative but to allow the appeal.
2. Accordingly, the appeal is allowed and the conviction and sentence are quashed.

Case name: James Doxilly
V
Corp. 476 Sean Alexander

[SLUMCRAP2006/0007]

Date: Monday, 26th October 2015

Coram: The Hon. Dame Janice M. Pereira Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: In person

Respondent: The Hon. Dame Janice M. Pereira Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Issues: Magisterial criminal appeal against conviction –
Possession of unlicensed firearm and ammunition

**Type of Oral
Result / Order:** N/A

**Result / Order
& Reason:** [Oral delivery]
1. The hearing of this appeal is adjourned to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016 to allow the appellant the opportunity to retain counsel to represent him.
2. A copy of the transcript and all other relevant documents are to be served on the appellant by the Court office within four (4) weeks of today's date.

Case name: Constable Vincent Marcel
v
Inspector Andrew Stanislaus
[SLUMCRAP2007/0013]

Constable Vincent Marcel
v
Sargeant 375 Mark Evariste
[SLUMCRAP2007/0011]

Constable Vincent Marcel
v
Constable 257 Hendricks Constable

[SLUMCRAP2007/0012]

Date: Monday, 26th October 2015

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Isa Cyril

Respondent: Mr. Leon France, Crown Counsel

Issues: Magisterial criminal appeal against conviction –
Disorderly conduct – Fine of \$500

**Type of Oral
Result / Order
Delivered:** Oral Judgment or Decision

**Result / Order
& Reason:** [Oral delivery]
1. Given the unlikelihood of the production of the reasons for decision and having regard to the age of this matter, the only course open to this Court is to allow the appeal.
2. Accordingly, the appeal is allowed. The conviction and sentence are accordingly quashed.
3. For the same reasons, the appeals in Nos. SLUMCRAP2007/0011 and SLUMCRAP2007/0012 are similarly allowed and the convictions and sentences quashed accordingly.

Case Name: Bain Nathaniel
v
PC 738 Antoine

[SLUMCRAP2008/0000]

Date: Monday, 26th October 2015

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Colin Foster

Respondent: Mr. Stephen Brette, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Unlawful assault

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order & Reason: [Oral delivery]

1. Given the lack of any transcript of the findings and reasons of the Magistrate and the unlikelihood that same will be forthcoming, this Court is left with no alternative but to allow the appeal.
2. Accordingly, the appeal is allowed. The conviction and sentence are quashed.

Case Name:

WPC 529 Collinthia Thomas
v
Thomas Colin Boulton
[SLUMCRAP2013/0023]
Consolidated with
CPL 708 Shervon Matthew
v

Sylvester Michael Joseph

[SLUMCRAP2013/0022]

Date: Monday, 26th October 2015

Coram: The Hon. Dame Janice M. Pereira Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:

Applicant: Ms. Victoria Charles-Clarke, DPP

Respondents: Mr. Colin Foster for Mr. Thomas Colin Boulton
Ms. Isa Cyril holding for Mr. Andie George on behalf of
the Bar Association of Saint Lucia

Issues: Case stated appeals – Rule 8.4 of the Criminal Procedure Rules – Application of rule 8.4 of the Criminal Procedure Rules by magistrates – What constitutes ‘exceptional circumstances’ for which a case should not be dismissed under rule 8.4 of the Criminal Procedure Rules – Section 47 Drugs (Prevention of Misuse) Act – Whether section 47 of the Drugs (Prevention of Misuse) Act limits a magistrate from applying rule 8.4 of the Criminal Procedure Rules

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order & Reason: [Oral delivery]

1. The cases stated no longer require the questions of law posed to the Court to be answered having regard to the revised Criminal Procedure Rules No. 22 of 2015 which has removed the requirement of exceptional circumstances.
2. As to the relationship between the lack of time limitation in the Drugs (Prevention of Misuse) Act and Rule 8.4 of the Criminal Procedure Rules as rightly conceded by the learned Director of Public Prosecutions, the time limitations governed different circumstances and are not in conflict with each other.

i.e. the provisions of the Drugs (Prevention of Misuse) Act relate to circumstances prior to the commencement of proceedings, while the Criminal Procedure Rules deal with the time limitation following the commencement of proceedings.

Case Name: **Randa Prospere**
v
Police

[SLUMCRAP2009/0001]

Date: **Monday, 26th October 2015**

Coram: **The Hon. Dame Janice M. Pereira, DBE, Chief Justice**
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: **No appearance**
Respondent: **Mr. Stephen Brette, Crown Counsel**

Issues: **Magisterial criminal appeal against conviction – Possession of a controlled drug – Possession with intent to supply**

Type of Oral Result / Order Delivered: **Oral Judgment or Decision**

Result / Order: **[Oral delivery]**
The appeal is dismissed.

Reason: **The Court was satisfied that the appellant was duly served with a notice to attend the hearing and there being no appearance by the appellant, the Court was of the view that the appellant had no interest whatsoever in**

prosecuting the appeal. Accordingly, the Court struck out the appeal.

Case Name: Alius Charlemagne
V
PC 695 Kendel Bicar
[SLUMCRAP2012/0009]

Date: Monday, 26th October 2015

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Mr. Stephen Brette, Crown Counsel

Issues: Magisterial appeal against conviction – Driving with defective tires

Type of Oral Result / Order Delivered: Directions

Result / Order: [Oral delivery]
1. The Registrar of the High Court shall cause to be served upon the appellant, personally, a notice of hearing of this appeal which shall be fixed for the week commencing 8th February 2016 and shall provide to the Court, proof of such service on the appellant.
2. The appeal is adjourned to the next sitting of the Court of Appeal in Saint Lucia during the said week commencing 8th February 2016.

Reason: The notice of hearing of the appeal was not served on the

appellant personally, but rather on the chambers of an attorney. In the circumstances, the Court could not consider this service on the appellant.

Case Name: Peter Charles
V
The Police
[SLUMCRAP2013/0001]

Date: Monday, 26th October 2015

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: Mr. Alfred Alcide
Respondent: Mr. Stephen Brette, Crown Counsel

Issues: Magisterial criminal appeal against conviction –
Possession of a controlled drug – Possession with intent
to supply – Appeal against sentence

**Type of Oral
Result / Order
Delivered:** N/A

Result / Order: [Oral delivery]
The matter is stood down to 3:45 pm.

Reason: The appellant was not present in person and counsel for the appellant had only just received supplemental skeleton arguments in reply from the respondent. Accordingly, the Court gave counsel for the appellant time to secure the attendance of the appellant as well as an opportunity to consider the respondent's

supplementary skeleton arguments.

Case Name: Evans Estaphane
V
PC 556 Patrice Francis
[SLUMCRAP2014/0013]

Date: Monday, 26th October 2015

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Mr. Stephen Brette, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Driving without due care and attention

Type of Oral Result / Order Delivered: Directions

Result / Order: [Oral delivery]
1. The Registrar of the High Court shall serve the notice of hearing for the next sitting of the Court scheduled for the week of 8th February 2016, personally on the appellant.
2. The respondent shall file and serve skeleton arguments in this appeal on or before Friday, 8th January 2016.
3. The appeal is adjourned to the next sitting of the Court of Appeal in Saint Lucia scheduled for the week commencing 8th February 2016.

Reason: The appellant had not been served with notice of the hearing of the appeal.

Case Name: Peter Charles
v
The Police
[SLUMCRAP2013/0001]

Date: Monday, 26th October 2015

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:
Appellant: Mr. Alfred Alcide
Respondent: Mr. Stephen Brette, Crown Counsel

Issues: Magisterial criminal appeal against conviction – Possession of a controlled drug – Possession with intent to supply – Criminal appeal against sentence – Fine of \$2,000 for possession simpliciter – Fine of \$3,000 for possession with intent to supply

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral delivery]
1. The appeal is dismissed and the sentence is varied.
2. The sentence is varied in respect to the charge of possession simpliciter and a sentence of caution, reprimand and discharge is substituted instead.
3. The sentence in relation to the charge of possession with intent to supply is affirmed.

Reason:

On 11th July 2012 the police executed a search at a house in Bouton in the Quarter of Soufriere. In the house they found the appellant sleeping. The house was not the appellant's house but was described as a family house. The appellant was there from morning until 4:10 pm when the police came. At the house the police found cannabis under a tarpaulin on the bed on which the magistrate found the appellant was sleeping. The police also found the drug four feet away from the bed and in the kitchen. The appellant was charged with the possession of the drug, possession to supply and cultivation.

Following the trial of the matter, the appellant was convicted of possession simpliciter and possession with intent to supply. The charge for cultivation was dismissed. The appellant never denied the drugs were found in the house. His defence was that the drugs were not his. The magistrate found both elements of the charge with possession and possession with intent. The magistrate found that the drugs were found by the police and accepted the prosecution's evidence and made reference to where the drugs were found. The magistrate also found that the appellant knew he was in possession of the drugs and he drew that inference from the places in which the drugs were found. He accepted the prosecution's evidence and rejected the defence's evidence. There was also other evidence on which the magistrate could have made the finding, including the time during which the appellant was at the premises, that the appellant never denied the drugs were there and the fact that he was sleeping showed that he was very comfortable in what was described as an abandoned house. In the circumstances, the Court found that the magistrate had evidence before him on which he could have made the finding he did. Accordingly, there was no basis upon which the Court could have interfered with the learned magistrate's decision.

On the issue of sentencing, in respect of the charge of possession simpliciter, having regard to the fact that possession was an element of both charges, the Court varied the sentence in respect of possession simpliciter and substituted it with a caution, reprimand and discharge and confirmed the sentence in respect of possession with intent to supply.

Case Name: **George Mathurin**
v
[1] Irvin Ferdinand
[2] David Andrew Charles Ferdinand
[SLUHCVAP2014/0007]

Date: **Tuesday, 27th October 2015**

Coram: **The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal**
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: **Mr. Horace Fraser**

Respondents: **Ms. Petra Nelson, with her, Ms. Esther Greene-Ernest**

Issues: **Civil appeal – Possession of land – Prescriptive title to land – Negative prescriptive title – Whether claim for possession statute barred – Whether occupation of land was permissive – Compensation for crops and improvements to land**

Type of Oral Result / Order Delivered: **N/A**

Result / Order: **[Oral delivery]**
Judgment to be delivered at 2:00 pm.

Case Name: **Boniface Christophe**
v
The Queen

[SLUHCRAP2010/002]

Date: Tuesday, 27th October 2015

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:

Appellant: Mr. Colin Foster

Respondent: Ms. Victoria Charles-Clarke, Director of Public Prosecutions

Issues: High Court criminal appeal against sentence – Rape and robbery – Whether sentence excessive – Whether sentences ought to run concurrently instead of consecutively – Oral application for adjournment to have a pre-sentence report prepared

Type of Oral Result / Order Delivered: Directions

Result / Order: [Oral delivery]

1. The Probation Department is to provide a pre-sentence report to the Court within 6 weeks of today's order.
2. The appellant is granted final leave to file and serve skeleton submissions within 14 days of receipt of the pre-sentence report.
3. The Director of Public Prosecutions is granted 14 days leave thereafter to file and serve submissions, if necessary.
4. The hearing of the appeal is adjourned and traversed to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th February 2016.

Reason: The appellant requested an adjournment in order to obtain a pre-sentence report.

Case Name:

Kim Florent

v

The Queen

[SLUHCRAP2012/0001]

Date:

Tuesday, 27th October 2015

Coram:

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal**

Appearances:

Appellant: Mr. Andie George, with him, Ms. Isa Cyril

Respondent: Ms. Tina Mensah, Crown Counsel, together with Ms. Victoria Charles-Clarke, Director of Public Prosecutions

Issues:

High Court Criminal appeal against conviction – Rape and unlawful connection – Whether the learned trial judge erred in law by failing to exercise his discretion to give necessary warning to the jury pursuant to section 136(1)(e) of the Evidence Act and by failing to give reasons for not doing so – Whether the absence of the direction would have made a difference in the outcome of the matter based on the cogency of the evidence advanced by the prosecution – Appeal against sentence – Sentence of 12 years imprisonment for rape and 7 years imprisonment for unlawful connection, to run concurrently – Whether appellant ought not to have been sentenced separately

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

**[Oral delivery]
The appeal against conviction and sentence is dismissed.**

Reason:

The appellant was convicted of having sexual intercourse with the virtual complainant without her consent contrary to section 123(1)(a) of the *Criminal Code* Cap. 3:01 Laws of Saint Lucia 2008 and also for having committed unlawful sexual connection with the virtual complainant without her consent contrary to section 124(1)(a) of the *Criminal Code*. The appellant was sentenced to 12 years imprisonment and 7 years imprisonment respectively for the offences to run concurrently.

The appellant advanced several grounds of appeal against his conviction and sentence. The appellant complained quite properly that the trial judge failed to warn the jury on matters stated in section 136 of the *Evidence Act* Cap. 4:15 Laws of Saint Lucia 2008 in terms of reliability of the evidence. The respondent conceded that the trial judge failed to address the issue of section 136. This however did not bring an end to the matter. The Court was of the view that if the Court were to exercise a discretion in this matter (as it subsequently did) that notwithstanding the omission of the trial judge to give the requisite direction, the force and cogency of the case advanced by the prosecution and accepted by the jury was such that the omission would have made no difference to the actual result arrived at by the jury.

The critical aspect of this case was the issue of consent. There was no dispute that intercourse took place. The prosecution argued that there was no consent. The appellant argued that there was consent. In fact the appellant argued that he and the virtual complainant had an arrangement for sex for money. The Court was of the view that the powerful nature of the evidence provided by the virtual complainant would have left the jury in no doubt that what occurred on that day was a submission and not consent. It was clear that a gun was ever present during the offences. The Court also considered the multiplicity of times the offences took place. The Court was of the opinion that the evidence of the virtual complainant on the issue of consent was so stark that it was amply sufficient to compel a verdict of guilt.

The appellant sought to suggest various inconsistencies of witnesses that the trial judge omitted to direct the jury on. The Court was of the view that the matters referred

to were in essence de minis and when gaged against the powerful evidence of lack of consent advanced by the prosecution, these matters would have had no effect on the actual outcome of the trial and the verdict arrived at.

The appellant advanced other appeal grounds but critically whilst there may have been merit in some of them, for instance, the issue of section 136, the overwhelming nature of the evidence presented by the prosecution was such that a jury which was directed properly would have arrived at the same conclusion. Accordingly, the Court considered that this was an appropriate case for the application of the proviso.

In respect of the appeal against sentence, this was not pursued with much vigor. The Court found no error in principle. The Court was not of the view that the sentence was manifestly excessive and found no basis to disturb the sentence imposed by the learned judge. Accordingly, the appeal against conviction and sentence was dismissed.

Case Name:

George Mathurin

v

[1] Irvin Ferdinand

[2] David Andrew Charles Ferdinand

[SLUHCVAP2014/0007]

Date:

Tuesday, 27th October 2015

Coram:

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Horace Fraser

Respondents: Ms. Petra Nelson, with her, Ms. Esther Greene-Ernest

Issues:	Civil appeal – Possession of land – Prescriptive title to land – Negative prescriptive title – Whether claim for possession statute barred – Whether occupation of land was permissive – Compensation for crops and improvements to land
Type of Oral Result / Order Delivered:	Oral Judgment or Decision
Result / Order:	[Oral delivery] 1. The appeal is dismissed and the orders of the trial judge are confirmed. 2. Cost of the appeal to the respondents.
Reason:	This appeal concerned a dispute over competing claims for a parcel of land comprising approximately 18 acres at Mamiku in the Quarter of Micoud registered as Parcel 1832 B 187 (“Parcel 187”). The respondents’ claim was based on documentary title supported by acts of ownership and possession and they sought orders for, among other things, vacant possession of Parcel 187, damages and costs. The appellant’s claim was based on negative prescription, that is, he had been in occupation of Parcel 187 for more than the required statutory period of 30 years which he alleged defeated the respondents’ paper title. He alleged that he moved into occupation in 1960 when he was 15 years old and later acquired a prescriptive title which became indefeasible before the respondents filed their claim in 2009. The appellant filed a counterclaim in the claim before the High Court and a petition in a related suit, both claiming that he had acquired a good prescriptive title to Parcel 187. The petition was combined with the respondents’ claim and both were heard together The respondents’ case was that they have a good paper title to Parcel 187 as well as overt acts of ownership and possession. Further, that the appellant’s occupation of Parcel 187 was permissive and that if he was in possession at any time, which was denied, such

possession was interrupted by events such as the Land Adjudication process, land surveys of Parcel 187, and a lawsuit filed by Ali and Irvin Ferdinand in 1999.

The learned trial judge dismissed and struck out the appellant's petition and counterclaim and ordered him to pay damages and the costs of the claim to the respondents.

The appellant appealed on two grounds, namely:

1. The findings of the learned trial judge goes against the weight of the preponderance of evidence led by the appellant which was not properly weighed or at all and evidence which was not specifically negative by the respondents.
2. The learned trial judge misdirected herself and therefore erred in law by summarily disposing of the appellant's counterclaim and defence without properly analysing the evidence presented before the court and by failing to rule on the legal issues raised in the appellant's defence and counterclaim.

In opening the appeal, learned counsel for the appellant, Mr. Fraser, repeated that the appellant's case is based on his being on Parcel 187 since 1960; that there were other relatives on the land; and there was no agreement with McDonald Ferdinand regarding his occupation of the land. Therefore, the appellant was entitled to a prescriptive title.

Mr Fraser submitted that he did not have a difficulty with the trial judge's dismissal of the appellant's claim, but that she did not deal with two issues, namely:

1. The appellant had been in occupation for more than 30 years and the respondents' claim is therefore barred.
2. The appellant is entitled to compensation for the crops he had planted on the land and improvements he made to the land.

The Court noted as a preliminary point that counsel's submission that the trial judge did not deal with the counterclaim was misconceived. The judgment opened at paragraph 4 with a statement that "[t]he single issue raised by Mr. Mathurin's counterclaim and petition is

whether Mr. Mathurin has acquired a prescriptive title of Block 1823B Parcel 187 or any part thereof or is a tenant at sufferance or a trespasser". The judgment was almost entirely dedicated to the evidence and law related to this issue. The judgment concluded by dismissing the petition and counterclaim. Accordingly, the Court considered that it could hardly be said that the trial judge did not deal with the counterclaim. The issues in the claim and counterclaim overlapped and there was no need for the judge to have compartmentalised them in her decision.

Prescription

The appellant was still relying on his claim for a prescriptive title which made it necessary for the Court to deal with the issue by reference to the evidence and the trial judge's decision.

The trial judge rejected the appellant's claim for a prescriptive title based on her assessment of the evidence and the law and wrote a very comprehensive judgment setting out her findings and conclusions. The judge found that the appellant was an unreliable witness; his witnesses, while confirming the appellant's occupation of parts of Parcel 187, were unhelpful on the important issue of determining the character of the appellant's occupation of the property. On the other hand, she found the respondents' main witness, Mary Ferdinand, the widow of McDonald Ferdinand, to be "honest in her answers" and accepted her evidence on the important issue of the character of the appellant's occupation of Parcel 187.

The Court found that the learned trial judge's finding that the appellant had not established a good prescriptive title to Parcel 187 was supported by the trial judge's findings. Details of these findings, all of which had the effect of contributing in varying degrees to the defeat of the appellant's prescriptive claim, were as follows:

- a. There was no clear evidence as to when the appellant actually entered the land apart from his own assertion that he did so in 1960. He was then a minor at age 15 and could not be prescribing. Mr. Fraser submitted that the appellant's prescriptive

claim was also based on possession of Parcel 187 by his predecessors in title. However, this allegation was not pleaded and was not dealt with at the trial. The Court rejected this late attempt to shore up the appellant's alleged possession of the property.

- b. There was also uncertainty regarding the dimensions of the land the appellant was now claiming – he did not walk the boundaries during the site visit
- c. He acknowledged that other family members are in occupation of portions of Parcel 187. He also purchased a portion of Parcel 187 as recently as 2004. The Court considered that this single act was inconsistent with a person who claims to be the owner of land.
- d. His occupation was permissive - firstly from McDonald Ferdinand under an arrangement whereby he would use the land for farming and pay McDonald Ferdinand. There was no direct evidence of the agreement (as found by judge) but there was direct evidence from Mary Ferdinand that (1) she was aware of the payment arrangement with McDonald Ferdinand; and (2) she collected money from the appellant for about one year for his use of the land and then he stopped paying. The trial judge also accepted the evidence of Ms Charles at paragraph 199 of her judgement that the appellant was on the land as an employee of McDonald Ferdinand.
- e. Following *Moses Joseph et al (Representatives of the Estate of Louis Seraphin) v Alicia Francois (Administratrix of the Estate of Jacob Fanus deceased)* SLUHCVAP2011/0025 (“the Fanus case”) if the appellant had a good claim for a possessory title it would have been interrupted, if not defeated, by the Land Adjudication process. The appellant did nothing to question the surveyors on the property and did not file a claim in the process for Parcel 187. The Court considered that this conduct was inexplicable by a person who claimed to have acquired possessory rights to property. The *Fanus*

case makes clear that a possessory claim could have been made by the appellant and, if granted, would have given him a provisional title to Parcel 187 which would eventually ripen into an absolute title. Mr. Fraser did not provide the Court with a good reason why the Court should not follow the clear guidance given by the Court in the *Fanus* case.

- f. The 1999 lawsuit by Ali and Irvin Ferdinand resulted in an injunction restraining the appellant and others from interfering with surveyors surveying the land. There was no objection by the appellant to this injunction.

The judge also made clear findings of fact rejecting the appellant's evidence and a part of her judgment, set out at paragraphs 165 to 174, was taken up with pointing out the inconsistencies in his evidence and the several occasions when he disowned his own previous statements, sometimes given on oath.

These were factual findings made by the trial judge based on her assessment of the witnesses. The principles for upsetting findings of fact of a trial judge are well known and do not need to be repeated. They were set out in the respondents' skeleton argument and were accepted as correct by the Court.

The Court did not find there was any basis for upsetting the findings of fact by the trial judge and the conclusions she reached from these findings. The first ground of appeal therefore failed.

Compensation

The appellant complained that in any case his occupation of Parcel 187 was in good faith and that he should be compensated for his crops on and improvements to the land. However, there was scant evidence supporting this part of the claim. The Court was of the view that the judge's order giving him time to reap his crops was sufficient to deal with the crops and there was absolutely no evidence of any improvements to the property. Accordingly, the second ground of appeal was also dismissed.

The Court did not find any good reason to interfere with the trial judge's judgment allowing the respondents' claim and dismissing the appellant's petition and counterclaim, awarding damages to the respondents and giving the appellant time to reap his crops and remove his animals from Parcel 187.

Case Name: **The Attorney General of Saint Lucia**
v
Kaim Sexius

[SLUHCVAP2012/0034]

Date: **Wednesday, 28th October 2015**

Coram: **The Hon. Dame Janice M. Pereira, DBE, Chief Justice**
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:
Applicant: **Ms. Isa Cyril**
Respondent: **Ms. Brender Portland-Reynolds, Solicitor General**

Issues: **Application for final leave to appeal to Her Majesty in Council**

Type of Oral Result / Order Delivered: **Oral Judgment or Decision**

Result / Order: **[Oral delivery]**
The application for final leave to appeal to Her Majesty in Council is granted.

Reason: **The applicant had obtained the certificate from the Registrar of the Supreme of Saint Lucia that security for**

costs was given within the time prescribed to the satisfaction of the Registrar and the Court was satisfied that the applicant had fulfilled all the requirements for final leave to appeal to Her Majesty in Council.

Case Name:

Neil Alvin Peter

v

The Queen

[SLUHCRA2013/0002]

Date:

Wednesday, 28th October 2015

Coram:

**The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal**

Appearances:

Appellant:

Mr. Leslie Prospere, with him, Mr. Vilan Edward

Respondent:

Mr. Stephen Brette, Crown Counsel, with him, Mr. Leon France, Crown Counsel

Issue:

High Court criminal appeal against conviction – Manslaughter – Whether the verdict was against the weight of the evidence at the trial – Whether the learned trial judge failed to direct the jury on the availability of the defence of self-defence to the appellant in circumstances where the appellant was the aggressor – Whether the learned trial judge failed to direct the jury that the defence of self defence may succeed even though the appellant had formed an intention to kill the deceased

**Type of Oral
Result / Order
Delivered:**

Oral Judgment with Written Reasons to follow

Result / Order:

[Oral delivery]

1. The appeal is allowed only in relation to ground two

- (2) of the amended grounds of appeal, that is in relation to the learned judge's direction on self-defence.
2. The conviction and sentence are accordingly quashed.
 3. The Court shall provide written reasons for its decision at a later date.

Reasons:

The appellant appealed against the decision of the learned trial judge on 3 grounds, namely:

1. The verdict was against the weight of the evidence in the trial.
2. The learned trial judge erred in law when he directed the jury to not consider self-defence had they made a determination that the appellant was the aggressor of the fight that resulted in the deceased's death.
3. The learned trial judge erred in law when he failed to direct the jury that the defence of self-defence may still succeed even though the appellant had formed an intention to kill the deceased.

The Court, having considered the submissions by the parties, allowed the appeal only in relation to ground 2 of the amended grounds of appeal, that is, in relation to the learned trial judge's direction in respect of self-defence. The Court considered there was no merit in ground 3 and the appellant rightly conceded on that ground. In relation to ground 1, the Court was of the view that there was little merit in this ground.

The Court concluded that the appellant was deprived of the full consideration of the defence of self-defence by the jury. The Court, having regard to the evidence in the case was of the view that the prosecution's evidence was not so overwhelming that the jury would have inevitably convicted the appellant. Accordingly, the Court quashed the conviction and sentence.

Case Name:

**Bryan James
v
The Attorney General**

[SLUHCVAP2013/0023]

Consolidated with

James Enterprises Limited

v

The Attorney General

[SLUHCVAP2013/0024]

Heard together with

Fast Kas Auto Supplied Limited

v

The Attorney General

[SLUHCVAP2014/0021]

Consolidated with

Curtis Hudson

v

The Attorney General

[SLUHCVAP2014/0021]

Date: **Wednesday, 28th October 2015**

Coram: **The Hon. Dame Janice M. Pereira, DBE, Chief Justice**
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellants: **Mr. Horace Fraser**

Respondent: **Ms. Brender Portland Reynolds, Solicitor General, with her, Ms. Karen Bernard, Crown Counsel for the Respondent in claim nos. SLUHCVAP2013/0023 and SLUHCVAP2013/0024**

Mr. Dwight Lay, Crown Counsel, for the Respondent in claim no. SLUHCVAP2014/0021

Issues:	Proceedings against a public officer – Article 28 of the Code of Civil Procedure — Notice of intended suit – Sections 4, 10, 13 and 14 of the Crown Proceedings Act – Interpretation of article 28 of the Code of Civil Procedure and its relation to provisions of the Crown Proceedings Act – Whether notice of intended suit should be served on the public officer or on the Attorney General – Substitution of defendants – Whether amended claim brought a new cause of action and action was now prescribed
Type of Oral Result / Order Delivered:	N/A
Result / Order:	[Oral delivery] Judgment reserved.
Case Name:	Justus William v Evely Inglis [SLUHCVP2013/0032]
Date:	Wednesday, 28 th October 2015
Coram:	The Hon. Dame Janice M. Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:	
Appellant:	Mr. Leslie Prospere, with him, Mr. Vilan Edward
Respondent:	Mr. Daarsrean Greene
Issues:	Motor vehicle accident – Whether the trial judge erred in her finding of facts and the inferences drawn from those

facts – Whether trial judge’s findings were supported by the evidence

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral delivery]

- 1. The appeal is allowed.**
- 2. The matter remitted to the court below for retrial on the question of liability before a different judge.**
- 3. Prescribed costs to the appellant based on the amount of the assessment in the court below.**
- 4. Costs in the appeal to the appellant, being two-thirds (2/3) of the costs in the court below.**

Reason:

This appeal was primarily against the trial judge’s finding of liability in respect of a motor vehicle collision. The learned judge’s decision was contained in the transcript in the record where she gave an oral decision. Having considered the findings made by the learned trial judge, the Court was of the view that the learned trial judge made findings of fact unsupported by evidence. In addition, the Court was of the view that that some findings made by the learned trial judge appeared to be inconsistent with the facts found by her in other instances. This lead the Court to the view that the decision of the learned trial judge could not stand as she failed to make proper use of the advantage that she had in analyzing and carrying out an evaluation of the evidence.

The appeal being fact sensitive and one which called into play reliability and credibility of witnesses placed the Court in the position where it could not substitute the findings of facts of those of the trial judge. The appeal was accordingly allowed and the matter was remitted to the court below for a retrial before a different judge on liability.

Case Name:

Bernard Auguste

v

Ian Joseph

[SLUHCVAP2013/0008]

Date:

Thursday, 29th October 2015

Coram:

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Horace Fraser

Respondent: Ms. Florita Nicholas

Issues:

**Personal injury – Gunshot wound to chest – Appeal
against assessment of damages – Whether special
damages was proven – Award of nominal damages in the
sum of \$1,500**

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral delivery]

- 1. Appeal allowed in part.**
- 2. The award of \$1500.00 for general damages made by
the learned judge is increased to \$10,000.00.**

Reasons:

**The appellant appealed against the decision of the
learned trial judge whereby she awarded \$1,500 nominal
damages to the appellant. The judge's decision to award
nominal damages was based largely on the lack of
evidence before her and her refusal to deal with the
limited evidence in the form of two or three medical
certificates referred to in the witness statement of the
appellant. Without deciding whether these statements
should or should not be looked at, the court decided that
nominal damages should be increased. The cases put**

forward by counsel awarded nominal damages in the region of \$35,000. Regrettably for the appellant, the evidence the Court was working with was extremely limited. The Court noted that the case involved a gunshot wound and that there was damage to the chest area and that there was surgery done. However, the Court was not certain whether the bullet was still inside the appellant. In the circumstances, the Court was of the view that nominal damages should be awarded in the sum of \$10,000. The Court was unable to make any award in for loss of prospective earnings and loss of amenity because there was insufficient evidence to form the basis of such awards.

Case Name: The Attorney General
v
[1] Allen Chastanet
[2] Kenneth Cazaubon
[SLUHCVP2015/0016]

Date: Thursday, 29th October 2015

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Anthony Astaphan, QC, with him, Mr. Leslie Mondesir, instructed by Mr. Dwight Lay, Crown Counsel, of the Attorney General's Chambers

Respondent: Mr. Garth Patterson, with him, Ms. Petra Nelson for the First Respondent
Mr. Alberton Richelieu for the Second Respondent

Issues: Interlocutory appeal - Claim of misfeasance in public office and breach of fiduciary duty – Whether question of jurisdiction other than territorial jurisdiction can arise under rule 9.7 of the Civil Procedure Rules 2000 –

Whether there is a distinction between the jurisdiction to hear a case and the jurisdiction to grant relief for the purposes of CPR 9.7 – Status of Town Council- Status of funds held by Town Council – Whether judge erred in striking out statement of case

**Type of Oral
Result / Order
Delivered:**

N/A

Result / Order:

**[Oral delivery]
Judgment Reserved.**

Case Name:

The Medical and Dental Council

v

Dr. Shaelle Durand

[SLUHCVAP2015/0024]

Date:

Friday, 30th October 2015

Coram:

**The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal**

Appearances:

Appellant: Ms. Wauneen Louis-Harris

Respondent: Ms. Lydia Faisal, with her, Mr. Bernick Faisal

Issues:

Application for leave to appeal – Application for extension of time – Application for stay of execution – Application by respondent to strike out paragraph of affidavit in support of application – Appeal against leave to file for judicial review – Renewal of practicing certificate – Sections 36 and 50 of the Health Practitioner’s Act – Nature of interim order made by learned judge – Whether order of learned judge sought to give effect to section 50(1) of the Health Practitioner’s Act

Type of Oral
Result / Order
Delivered:

Oral Judgment or Decision

Result / Order:

[Oral delivery]

1. The application for leave to appeal is treated as the substantive appeal.
2. The decision of The Medical and Dental Council dated 26th June 2015 is hereby stayed until the determination of the judicial review proceedings in the court below.
3. Having treated the application for leave as the substantive appeal, there is no need to consider The Medical and Dental Council's application for a stay.
4. As it relates to the application to strike out certain paragraphs of the affidavit filed in support of the appellant's application for stay, no useful purpose will be served by the Court considering the application having regard to the issues in the judicial review proceedings which are live before the court below.
5. No order as to costs.

Reason:

The Court decided to treat the application for leave to appeal as the substantive appeal against the order of the learned judge in the court below granting interim relief. The Court was of the view that the purport and effect of learned judge's order was to give effect to section 50(1) of the *Health Practitioners Act* No. 33 of 2006 which implicitly would have the effect of a stay of decision of the Medical Council and Dental Council dated 26th June 2015. The Court was of the view that the learned trial judge did exercise his discretion properly despite the wording of the order.

In light of the above, the Court decided that the decision of the Medical and Dental Council be stayed pending the judicial review proceedings. The Court also had regard to submissions of counsel and based on the way in which the issues arose; the Court was of the view that the proper costs order in this appeal should be that there be no order as to costs, and the Court so ordered.

Having treated the application for leave to appeal as the

substantive appeal, the Court considered that was no need to consider the application by the Medical and Dental Council for a stay. In relation to the respondent's application to strike out paragraphs of the affidavit in support of the application for leave to appeal, the Court did not consider that there was any useful purpose to consider the application having regard to the issues in the judicial review proceedings which are live in the court below.

Case Name:	Grenada Technical and Allied Workers Union v St. George's University Limited [GDAHCVAP2014/0008] (Grenada)
Date:	Friday, 30th October 2015
Coram:	The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal The Hon. Mde. Louise Esther Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:	
Appellant:	Mr. Douglas Mendes, SC
Respondent:	Mr. Anthony Astaphan, SC, with him, Mr. Richard Williams
Issues:	Interpretation of contracts – Whether background facts can be considered in interpretation of contract where words are unambiguous – Interpretation of article 11 of collective agreement between the parties – Whether night differential allowance should be paid only to maintenance shift workers or to all workers who work at night
Type of Oral Result / Order Delivered:	N/A

Result / Order: [Oral delivery]
Judgment Reserved.

Case Name: Jennifer Prescott
v
[1] Aldrick Parris
[2] John H. Primus
[SLUHCVAP2013/0013]
Consolidated with
Aldrick Parris
v
Jennifer Prescott
[SLUHCVAP2013/0025]

Date: Friday, 30th October 2015

Coram: The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal

Appearances:

Appellant / Respondent:	Ms. Lydia Faisal, with her, Mr. Bernick Faisal
Respondent / Counter appellant:	Mr. Eghan Modeste

Issues: Appeal against assessment of damages – Counter appeal on costs – Appeal against amendment of judgement by

trial judge - Whether learned trial judge proceeded to correct judgment under rule 42.10 of the Civil Procedure Rules 2000 or under the inherent jurisdiction of the court – Appeal against pre-judgment interest rate – Whether learned trial judge erred in awarding pre-judgment interest at the rate of 6%

Type of Oral
Result / Order
Delivered:

Oral Judgment or Decision

Result / Order:

[Oral delivery]

1. The appeal is allowed.
2. The order of the trial judge is varied to the extent that the amount of \$55,300.00 is substituted for \$33,600 awarded as special damages.
3. In relation to the counter appeal of Mr. Primus, the appeal is allowed in respect of costs. The appellant is awarded prescribed costs in the court below and in the court of appeal 2/3 of the costs awarded in the court below.

In relation to SLUHCVP2013/0025:

The appeal is allowed. The order of the learned judge is varied to the extent that the interest on the pre judgment is amended and is awarded at the rate of 3%.

Reasons:

Appeal by Aldrick Parris (SLUHCVP2013/0025)

The Court was of the view that the learned trial judge had the jurisdiction to amend the judgment to include the date from which the interest should run. The Court discerned no error committed by the judge in that regard. The Court found that the judge did not act under rule 42.10 of the Civil Procedure Rules 2000 but that she invoked the inherent jurisdiction of the court in doing so.

With respect to the ground of appeal concerning the award of pre judgment interest, the Court listened to submissions on both sides, and noted that learned counsel for Mr. Parris urged the Court that pre judgment interest ought to be 3% and not 6% as awarded. The Court noted that the award of pre judgment interest is a

matter of discretion of a judge but was of the view that it was an error in principle to award the same quantum on pre judgment interest as on post judgment interest. Consequently, the Court varied the rate of interest on the award of pre judgment from 6% to 3%.

Appeal by Jennifer Prescott (SLUHCVP2013/0013)

With respect to the appeal by Ms. Jennifer Prescott, the Court noted that the appellant was contending in essence that the entire amount for loss of earnings was not given by the judge and that there was no proper basis for the judge to deny the entirety of the amount claimed. The Court was referred by counsel to the pleadings and defence and the fact that the evidence of the claimant was not contradicted or challenged. The Court was also referred to the medical evidence of the medical doctor as of November 2013 which spoke to the medical condition of the appellant. The Court also perused the judgment of the learned trial judge and in particular paragraph 37 which formed the core of the trial judge's conclusion. At paragraph 37 the judge addressed the issue of loss of earnings and midway in the paragraph the judge said that:

“The Court bearing in mind the description of the injuries and in particular the lack of stability in Ms. Prescott's right leg as described in the medical report, and her lack of money to pursue further treatment earlier which might have lessened or alleviated some of the problems with which she confined to suffer, believes that it would be fair to award Ms. Prescott four (4) years wages”.

The judge went on to award the appellant \$33,600. Counsel for Ms. Prescott complained that the judge erred in so doing and that the judge ought to have awarded \$55,000 which represented the true situation.

The Court noted that there was no proper basis advanced in the judgment as to why the judge awarded loss of earnings for 4 years rather than the full number of years claimed. In that regard it appears that the judge chose 4 years arbitrarily. The Court was of the view that the evidence supported the position of the appellant and that the proper amount to be awarded for loss of earnings was

\$55,300. Accordingly, the Court allowed the appeal and substituted the amount of \$55,300 for \$33,600 for loss of wages.

Counter appeal by John H. Primus (SLUHCVAP2013/0013)

With respect to the counter appeal by Mr. John H. Primus which concerned an appeal against the non-award of costs in the court below, the Court found that the judge gave no reason for not awarding costs to Mr. Primus in circumstances where the Court found he was not liable. Counsel for Ms. Prescott conceded on this ground. Accordingly, the Court allowed Mr. Primus' counter appeal.

Case Name:

**Lazarus Paul
v
[1] Raquel Willie-Trotman
[2] Douglas Trotman
[3] Teferi Trotman minor acting herein and represented
by his mother Raquel Willie-Trotman
[SLUHCVAP2013/0028]**

Date:

Friday, 30th October 2015

Coram:

**The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal**

Appearances:

**Appellant: Mr. Gerard Williams
Respondent: Ms. Wauneen Louis-Harris**

Issues:

Application to strike out notice of appeal

**Type of Oral
Result / Order**

N/A

Delivered:

Result / Order:

[Oral delivery]

The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Lucia scheduled for the week commencing 8th February 2016.